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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/882,646	06/15/2001	Dennis J. Adams	070156-0148	2215
26371	7590	08/10/2005	EXAMINER	
FOLEY & LARDNER 777 EAST WISCONSIN AVENUE SUITE 3800 MILWAUKEE, WI 53202-5308			ROSWELL, MICHAEL	
			ART UNIT	PAPER NUMBER
			2173	

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/882,646

Applicant(s)

ADAMS, DENNIS J.

Examiner

Michael Roswell

Art Unit

2173

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

After consideration of the Appeal Brief filed 20 May 2005, prosecution is hereby re-opened.

Claim Objections

Claim 9 is objected to because of the following informalities: the claim recites the limitation "displaying audio representations of the audio recording". Clearly, an audio representation cannot be displayed. Thus, the claim is subject to the broadest reasonable interpretation by the Examiner. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 7-21, and 24-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Blumenau (US Patent 5,664,216).

Regarding claim 1, Blumenau teaches receiving a reference indicating a location in a recorded signal, the reference being indicative of a desired audio tempo change location in the recorded signal (taught as the inclusion of a tempo filter [see col. 8, lines 31-33] at a specified location in an audio or video file [see col. 7, lines 65-67]), and providing a tempo for an audio

recording to be at least partially included in the recorded signal (taught as the inclusion of the filter in the edited file, the storing of which is disclosed at col. 10, lines 33-51), the tempo being adjusted to fit the audio recording to a section of the recorded signal marked by the reference (taught as the specification of the tempo filter over a period of time or frames, at col. 7, line 65 through col. 8, line 2).

Regarding claim 2, Blumenau teaches the reference indicative of a time location in the recorded signal to coincide a musical event with a particular frame of video in the recorded signal, taught as the temporal synchronization of an audio file with a video file, at col. 2, lines 62-67.

Regarding claim 3, Blumenau teaches the reference being indicative of a location in the audio recording to be synchronized with a cursor time reference located in the recorded signal, taught as the temporal synchronization of an audio file with a video file, at col. 2, lines 62-67, and seen in Fig. 4.

Regarding claim 4, Blumenau teaches providing a user interface via a computing device, the user interface providing graphical representations of the recorded signal and of the audio recording to be at least partially included in the recorded signal, shown as the source file icons of Fig. 1, and disclosed at col. 4, lines 58-61.

Regarding claim 7, Blumenau teaches the step of providing a tempo for an audio recording to be at least partially included in the recorded signal comprising receiving an

indication of a beginning and an end of the audio recording segment, taught as the specification of filter start and end times, at col. 7, line 65 to col. 8, line 2, and seen in Fig. 4.

Regarding claim 8, Blumenau teaches displaying video thumbnails of video images in the recorded signal user interface, the user interface having time indications labeling the video thumbnails according to timing of appearance of video images in the recorded signal, as seen in Figs. 3-4.

Regarding claim 9, Blumenau teaches displaying audio representations of an audio recording to be at least partially included in the recorded signal, the audio representations being labeled with the time indications, as seen in the interface of Fig. 3, used in editing both audio and video files.

Regarding claim 10, Blumenau teaches means for receiving a reference indicating a location in a recorded signal, and means for providing a tempo for an audio recording segment to be included in the recorded signal, the tempo being adjusted to fit the audio recording segment to a section of the recorded signal marked by the reference (taught as the inclusion of a tempo filter [see col. 8, lines 31-33] at a specified location in an audio or video file [see col. 7, lines 65-67]).

Regarding claim 11, Blumenau teaches means for interfacing with a computing device, the interfacing means being configured to provide graphical representations of the recorded signal including video images and of the audio recording segment to be included in the recorded

signal, taught as the use of a monitor attached to a computing device, typically used in the computing system disclosed at col. 1, lines 28-43.

Regarding claim 12, Blumenau teaches means for receiving an indication of a beginning and an end of an audio recording segment, taught as the specification of filter start and end times, at col. 7, line 65 to col. 8, line 2, and seen in Fig. 4.

Regarding claim 13, Blumenau teaches displaying video thumbnails of video images in the recorded signal user interface, the user interface having time indications labeling the video thumbnails according to timing of appearance of video images in the video, as seen in Figs. 3-4.

Regarding claim 14, Blumenau teaches displaying audio representations of an audio recording to be at least partially included in the recorded signal, the audio representations being labeled with the time indications, as seen in the interface of Fig. 3, used in editing both audio and video files.

Regarding claim 15, Blumenau teaches a central processing unit and a storage device coupled to a processor and having stored there information configuring the CPU (see col. 4, lines 28-43) for receiving a reference indicating a location in a recorded signal, and means for providing a tempo for an audio recording segment to be included in the recorded signal, the tempo being adjusted to fit the audio recording segment to a section of the recorded signal marked by the reference (taught as the inclusion of a tempo filter [see col. 8, lines 31-33] at a specified location in an audio or video file [see col. 7, lines 65-67]).

Regarding claim 16, Blumenau teaches a presentation device configured to provide a graphical user interface which presents portions of the recorded signal and the audio recording segment, taught as the use of a monitor attached to a computing device, typically used in the computing system disclosed at col. 1, lines 28-43.

Regarding claim 17, Blumenau teaches an interface device configured to connect the CPU with a network of computers, taught inherently as the means to access audio or video data from a network, at col. 4, lines 58-61.

Regarding claim 18, Blumenau teaches a storage device having stored files containing video information, taught at col. 4, lines 58-61.

Regarding claim 19, Blumenau teaches the CPU being further configured to assign the provided tempo to the audio recording segment, at col. 4, lines 36-43.

Regarding claim 20, Blumenau teaches the CPU being further configured to save a file to the storage device, the file including information related to the video, the audio recording segment, and the provided tempo, taught as the saving of an edited file, at col. 10, lines 42-51.

Regarding claim 21, Blumenau teaches a first graphical display area on which graphical representations of a first audio recording can be displayed, a second graphical display area on which graphical representations of a second audio or video recording can be displayed (see Fig. 4), and a reference marker which is configured to be selectively located by a user, the reference marker being used to adjust the tempo of at least a portion of the first audio recording, the

tempo adjustment being provided to fit the first audio recording to a section of the second audio or video recording (taught as the inclusion of a tempo filter [see col. 8, lines 31-33] at a specified location in an audio or video file [see col. 7, lines 65-67]).

Regarding claim 24, Blumenau teaches the reference marker being a time marker indicating a time location in the second audio or video recording, taught as the specification of filter start and end times, at col. 7, line 65 to col. 8, line 2, and seen in Fig. 4.

Regarding claim 25, Blumenau teaches the tempo adjustment being performed using the reference marker in the second audio or video recording and a cursor position in the first audio recording, as can be seen in Figs. 3-4, and taught as the use of "sync" counters, at col. 9, lines 9-17.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 22, 23, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blumenau.

Regarding claim 22, Blumenau has been shown *supra* to teach a reference location marker being related to the time value of a segment in an audio or video stream. At the

time the invention was made, it would have been obvious to a person of ordinary skill in the art to include a reference location marker indicating a measure location in an audio recording.

Applicant has not disclosed that a measure location indicator provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the temporal indicator of Blumenau because both styles of indicator allow for the precise addition of filter effects, in this case, a tempo change in an audio file.

Therefore, it would have been obvious to one of ordinary skill in the art to modify Blumenau to obtain the invention as specified in claim 23.

Regarding claim 23, Blumenau teaches the tempo adjustment being performed using the reference marker in the first audio recording and a cursor position in the second audio or video recording, as can be seen in Figs. 3-4, and taught as the use of "sync" counters, at col. 9, lines 9-17.

Regarding claim 26, Blumenau teaches an interface for indicating a position for changing the tempo of an audio file. Blumenau fails to explicitly teach the dragging of a reference marker to a location indicating the position of a tempo change. However, it is well known in the art that the cursor within the location bars as seen in Figs. 3-4 may be dragged to a position in the bar to indicate a selected segment of an audio or video file. The Examiner takes OFFICIAL NOTICE of these teachings. Therefore, it would have been obvious to one of ordinary skill in the art to include the dragging of a reference marker to a location indicating the position of a tempo change into the reference location bar of Blumenau.

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blumenau and Samra (US Patent 6,897,880).

Regarding claim 5, Blumenau teaches a method for editing audio and video files that includes changing the tempo of an audio file at an indicated location. Blumenau fails to explicitly teach providing a graphical representation of an audio waveform, wherein the user interface provides for the selective manipulation of characteristics of the audio waveform.

Samra teaches a user interface used to edit video and audio files, similar to that of Blumenau. Furthermore, Samra teaches a graphical representation of an audio waveform, wherein the user interface provides for the selective manipulation of characteristics of the audio waveform, at col. 47-57.

Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Blumenau and Samra before him at the time the invention was made to modify the method for editing audio and video files that includes changing the tempo of an audio file at an indicated location of Blumenau to include the graphical display of a waveform of Samra, in order to obtain an audio/video editing system capable of tempo changes and displaying audio waveforms.

One would be motivated to make such a combination for the advantage of graphically viewing a segment or the entirety of an audio file allowed by a waveform. See Samra, col. 9, lines 50-52.

Regarding claim 6, Samra teaches increasing the length and duration of an audio waveform by allowing the looping of clips for continuous playback, at col. 10, lines 38-42.

Response to Arguments

Applicant's arguments with respect to claims 1-26 have been considered but are moot in view of the new ground(s) of rejection.

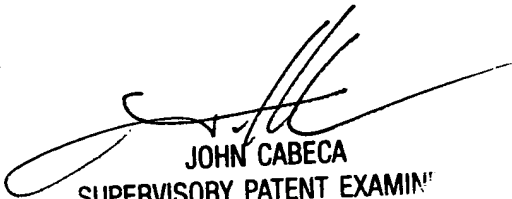
Please note that the Examiner of record has changed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Roswell whose telephone number is (571) 272-4055. The examiner can normally be reached on 8:30 - 6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca can be reached on (571) 272-4048. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael Roswell
8/8/2005


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